

**IN THE UNITED STATES DISTRICT COURT
OF THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

GEORGIANNA LYNN JONES

§

VS.

§

CIVIL ACTION NO. 5:08cv121

**COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION**

§

MEMORANDUM ORDER

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Caroline M. Craven pursuant to 28 U.S.C. § 636. The Report of the Magistrate Judge which contains her proposed findings of fact and recommendations for the disposition of such action has been presented for consideration. Plaintiff filed objections to the Report and Recommendation. The Court conducted a *de novo* review of the Magistrate Judge's findings and conclusions.

Plaintiff objects to the Magistrate Judge's recommendation that Plaintiff's above-entitled and numbered social security cause of action be affirmed. Specifically, Plaintiff asserts she did not have an attorney at the hearing. Plaintiff further asserts the ALJ did not properly develop the record regarding Plaintiff's heart attack and subsequent by-pass surgery. Plaintiff refers to 465 pages of records which, according to Plaintiff, were submitted six months after the ALJ issued his unfavorable decision. Plaintiff asserts the case should be remanded to develop and consider Plaintiff's cardiac limitations; contact Plaintiff's cardiologist; and develop Plaintiff's residual functional capacity; and obtain complete vocational expert testimony. Finally, Plaintiff asserts the ALJ ignored Plaintiff's non-exertional limitations and did not properly evaluate Plaintiff's chronic

pain.

The Court first addresses Plaintiff's argument that her case should be remanded because she was not represented by an attorney at the hearing. According to the record, Plaintiff appeared in person at the June 21, 2007 hearing and was represented by her attorney, Joseph Sterle (Tr. 591). In her Report and Recommendation, the Magistrate Judge correctly noted that Plaintiff was represented by counsel.

Regarding the additional records submitted by Plaintiff regarding her heart attack and subsequent cardiac treatment, the Magistrate Judge noted that the Appeals Council considered the additional records and found the additional evidence did not provide a basis for changing the ALJ's decision. The records were also considered by the Magistrate Judge. The Court agrees the medical records do not show that Plaintiff's cardiac condition was a severe impairment or disabling condition. The Court further finds the ALJ properly evaluated all of Plaintiff's alleged disabling impairments and chronic pain. What is more, Plaintiff has failed to demonstrate, by adducing evidence that might have altered the result, that she was prejudiced in some way by the deficiencies she alleges. Finally, the Court finds the ALJ properly found that Plaintiff could perform the full range of sedentary work, and that based on the Medical-Vocational Guidelines, not vocational expert testimony, Plaintiff could perform a significant number of sedentary jobs in the national economy.

After reviewing the transcript, the briefs of the parties, and the Report and Recommendation, the Court finds Plaintiff's objections are without merit. The Court agrees with the Magistrate Judge that substantial evidence supports the Administrative Law Judge's determination that Plaintiff could perform sedentary work. The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the Report of the United States

Magistrate Judge as the findings and conclusions of this Court. Accordingly, it is hereby

ORDERED that the above-entitled Social Security action is **AFFIRMED**.

SIGNED this 4th day of January, 2010.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE